

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF SERVICENTER LTD. FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS (TER.ED.) CHAPTER 121A AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN AND CARRIED OUT BY A LIMITED PARTNERSHIP FORMED UNDER M.G.L. CHAPTER 109, AND APPROVAL TO ACT AS AN URBAN REDEVELOPMENT LIMITED PARTNERSHIP UNDER SAID CHAPTER 121A.

A. The Hearing. A public hearing was held at Boston State College, 625 Huntington Avenue, Boston, Massachusetts on October 26, 1978, at 7:30 P.M. by the Boston Redevelopment Authority (hereinafter called the "Authority") on an Application, dated October 2, 1978, (hereinafter called the "Application"), filed by Servicenter, Ltd., for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended, (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on October 16, 1978, and October 23, 1978, in the Boston Herald American, a daily newspaper of general circulation published in Boston, and mailing postage prepaid in accordance with Rule 4 of the Rules and Regulations of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority, James G. Colbert, Joseph J. Walsh, James K. Flaherty and James E. Cofield, Jr., members of the Authority, were present at the hearing.

B. The Project. The Project Area is bounded by Brookline Avenue, Fenwood Road, Francis Street, and Binney Street, more fully described in the metes and bounds description in the Application. It contains 55,866 square feet of land. A list of the present owners of the project area is found in Appendix 15 of the Application.

Said owners are holding title for the benefit of the President and Fellows of Harvard University, with whom the Applicant has executed an option to purchase the Project Area.

The Project consists of the acquisition, construction, operation, and maintenance of a mixed use building and adjoining pedestrian park with 43,205 square feet of floor space in the basement and first floors to be used as a Materials Handling Center for the adjoining affiliated Hospital Center (connected to it by a tunnel under Francis Street), six floor of the structures to be used for a 634 car garage for parking in the Longwood Medical Area to be operated by the Medical Area Service Corporation ("MASCO") and 11,850 square feet of space to be used for commercial retail purposes. The park will consist of approximately 12,000 square feet of trees, benches, paving and landscaped areas. The height of the building to be constructed will be 58.31 feet excluding stair towers, mechanical penthouses and other mechanical equipment. Aside from the complex facilities to be installed in connection with the Materials Handling Center and the elevators and other operating equipment for the Garage, the Applicant will provide amenities for the public in the form of an additional street setback along Francis Street and Brookline Avenue, including trees and benches providing a small pedestrian park on Brookline Avenue, and a widening of both streets, the extension of Binney Street from Francis Street to Fenwood Road, additional and costly sub-soil construction techniques resulting from the adverse subsoil conditions and the provisions of commercial space to serve local businesses

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, and arguments and statements made at the hearing.

The Project as defined in the Application, constitutes a Project within the meaning of Section 1 of Chapter 121A of the General Laws, providing as it does, for the purchase, construction and maintenance in a blighted, open, decadent or substandard area of an essential component of the new Affiliated Hospital Center complex providing facilities for pick-up and removal of trash and soiled linen, storage for supplies, receiving and shipping docks and materials handling facilities which would otherwise have to be located at a less suitable location in the Affiliated Hospital Center.

D. Project Area. The Project Area is not currently used as dwelling; however, dwelling units were located in the Project Area prior to their destruction last year. In the opinion of the Applicant the Project Area is a blighted, open and decadent area as defined in Chapter 121A, detrimental to the safety, health, morals, welfare and sound growth of the community by virtue of the fact that the Project Area would be unduly costly to develop soundly without the benefits of Chapter 121A as a result of unsuitable soil conditions specifically a large amount of soft and unsuitable materials which will require the use of unduly expensive excavation, fill or grading, spread foundations, and soldier piles with wood planking and because of the high water table in the Project Area requiring special treatment to the elevator pits and underground tunnel. Appendix 4 of the Application contains a report of the subsoil conditions.

The Project Area is detrimental to the health, safety and sound growth of the Community for the reasons stated above and are conditions which have not, and in the opinion of the Applicant, will not be remedied by the ordinary operations of private enterprise.

Without the aids available under G.L. Chapter 121A as is evidenced by the requirement of the mortgage lender attached to the Application, that the real estate taxes be limited to contain percentages of the project's estimated gross annual income, which percentage levels can only be lawfully agreed to by the City of Boston under G.L. Chapter 121A and Chapter 6A, the site would not be developed. These conditions and other factors referred to in the Application and this Report and Decision warrant the carrying out of the Project in accordance with Chapter 121A. The proposal constitutes a "project" within the meaning of that statute.

For these reasons it is found that the Project Area is a blighted open and decadent area within the meaning of Chapter 121A, as amended. It is unlikely that the conditions will be remedied by the ordinary operations of private or public enterprise.

The Project will provide substantial financial return to the City of Boston. The 6A Tax Agreement attached to the Application sets forth the Agreement to be entered into between the City of Boston and the Applicants. This Agreement provides in substance that there be paid to the City of Boston in lieu of real estate taxes in each of the thirty (30) calendar years after approval of the Project.

During construction, the owner will pay thirty-four thousand dollars (\$34,000) per year. Commencing in the first calendar year after completion of the Project, which is the third year of the development, the rates will be as follows:

6A Rate Schedule For Service Center, LTD
(%) Percentage of Gross Rental Income

<u>Years:</u>	<u>After Completion</u>				
	<u>3-5</u>	<u>6-10</u>	<u>11-15</u>	<u>16-20</u>	<u>21-30</u>
1. Materials Handling Center	4%	5%	5%	5%	5%
2. Parking Garage	14%	17%	21%	23%	25%
3. Commercial Space	23%	25%	28%	28%	28%

In addition, the Applicant has agreed to develop and maintain a landscaped area, open to the public, on the vacant land parcel adjacent to the development, according to the specifications of the BRA's Planning and Design Departments for the life of the 121A. The Applicant has further obligation to construct the public amenities and right of way as well as the provision of said easements on those amenities as stated in the Application.

E. Cost of the Project. In the opinion of the Authority, the cost of the project has been realistically estimated in the Application and the Project is practicable. The estimated cost of approximately Nine Million Eight Hundred Ninety Thousand (\$9,890,000) Dollars. Approximately Eight Million One Hundred Thousand (\$8,100,000) will be financed by a first mortgage from Aetna Life Insurance Company at an estimated interest rate of 9.875%.

The following are all the persons, natural or corporate, who have or will have, directly or indirectly, any beneficial interest in the Project prior to its completion:

Servicenter, Ltd., a Massachusetts Limited Partnership

General Partner: George Macomber

Original Limited

Partner: William E. Holland

Aetna Life Insurance Company

Affiliated Hospital Center

The Application contains the Corporate Articles of Organization for the Limited Partnership. The Articles illustrate the corporate purposes and structure. Experience with similar financing and organization methods persuades the Authority that the financial program is realistic.

F. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston since the Project Area comes within a classification in the Master Plan which permits buildings and uses of the kind proposed by the Applicant.

G. Effect of the Project. The Project will not be in any way detrimental to the best interest of the public or the City or to the public safety or convenience or be inconsistent with the most suitable development of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The structure to be built on the Project Site has been reviewed by the Design Review Staff of the Authority and is subject to further design review should the proposed design change in any way. The Authority finds that this Project will enhance the general appearance of the Area and will furnish attractive and necessary landscaping.

The carrying out of the Project will not involve the relocation of any families.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

H. Environmental Considerations. To conform with the provisions of Section 6 of Chapter 30 of the General Laws (as inserted by Chapter 781 of the Acts of 1972) and the Regulations thereunder as adopted by the Authority on April 11, 1974, the Project must comply with the City of Boston Air Pollution Control Commission's Regulations for the Control of Noise and Regulations for the Control of Atmospheric Pollution during all phases of construction activities and during the operation of the project. In order to comply with these regulations, the Applicant shall adopt and implement the following mitigation measures, but without limitation:

1. No construction activity shall commence prior to 7:00 A.M. or terminate later than 6:00 P.M. In no case shall any pile driving be done during nighttime hours or on weekends.
2. All equipment shall be well-maintained and in proper working order.
3. All construction equipment and engines shall be fitted with mufflers or other acoustical devices that maintain noise levels to applicable Federal, State, or local regulations or guidelines.
4. All impact tools and other sources of excessive noise shall be fitted with state-of-the-art noise suppressors or enclosed in sound absorption chambers to reduce noise levels to the extent feasible and in accordance with applicable Federal, State, or local regulations or guidelines.
5. Whenever feasible, the least noisy means of construction shall be used (e.g., hydraulic tools rather than pneumatic impact tools).
6. Noisy equipment shall be kept as far as possible from nearby sensitive receptors.
7. Equipment operations shall be scheduled to minimize average noise levels, to keep noise levels relatively uniform in time, and to have the noisiest operations coincide with times of highest ambient levels.
8. No equipment or trucks shall be allowed to idle unnecessarily.
9. Stationary noise generating equipment shall be enclosed to reduce noise levels.
10. Construction activities shall be planned and scheduled so that the waiting of trucks to load or unload will be minimized.
11. Truck routes shall be specified so as to avoid residential areas and shall meet the approval of the Authority.
12. All exposed earth surfaces shall either be covered or be dampened at least twice a day, when necessary.
13. All soils shall be stabilized as soon as possible upon reaching final grade.
14. All excavation and other loads leaving the site shall be covered to reduce dust emissions and spillage.
15. All trucks shall be provided with mud flaps to control dust.
16. No trucks shall be loaded beyond allowable limits, and all vehicles shall be equipped with mufflers to reduce sound levels.
17. Trucks leaving the site shall be sprayed when necessary to prevent dust emissions and dirt from being deposited on city streets.
18. The construction site shall be equipped with wheel-washing facilities on each track exiting the site, and the wheels of each truck exiting the site shall be washed.
19. Entrances and exits to the site shall be gravelled to control dust.

20. The period when spoils and waste are stored on the site shall be minimized.
21. Aggregate storage piles and spoils storage shall be located as far as possible from nearby sensitive receptors.
22. No trucks loading or unloading at the loading dock area or waiting to load or unload shall be allowed to idle unnecessarily. To the extent practicable, no idling shall exceed one minute.
23. Truck routes for trucks serving the project shall be designated so as to avoid residential areas and sensitive receptors in the vicinity of the project to the extent feasible. No trucks shall be permitted to enter Fenwood Road from Huntington Avenue.
24. Truck deliveries shall be planned and scheduled to avoid peak traffic periods and to reduce the necessity for waiting to load or unload. All deliveries shall be made during the daytime and no night deliveries shall be permitted.
25. Exhaust fans and HVAC systems shall be located as far as possible from nearby sensitive receptors. Such equipment shall be designed and selected to produce noise as low as current available technology allows

The Applicant further shall comply with all regulations and requirements of the Metropolitan District Commission with respect to drainage from the project, including the installation of gasoline trap interceptors and traps to filter other pollutants before their emptying into the storm drainage system.

And further, the Project is in compliance with the environmental review standards set forth below and must further comply with all provisions as set forth above.

1. The Project does not adversely affect any recreational area or any aesthetic values in the surrounding areas.
2. No natural or man-made places are adversely affected by the Project.
3. The Project does not adversely affect archeological or historical structures or features.
4. The Project does not affect the potential use, extraction or conservation of a scarce natural resource.
5. The Project Area is urban and therefore does not serve as a habitat for wildlife or fish species.
6. Being urban, the Project has no impact on any wilderness areas.
7. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such manner as will cause damage to the environment.
8. The Project does not require certification, authorization or issuance of a permit by any local, State or Federal environmental control agency.
9. The Project does involve the disposal of potentially hazardous materials, and therefore must follow the limitations as listed above.

10. The Project does not involve the construction of facilities in a flood plain.
11. The Project, except necessarily during the construction phase, does not result in the generation of a significant amount of noise or dust.
12. The Project does not result in a deleterious effect on the quality of any portion of the State's air or water resources.
13. The Project does not adversely affect an area of important scenic value.

As a result of the investigation and Report of the Authority's staff and of its own knowledge, the Authority hereby determines that the Project will not cause significant environmental damage and that the Secretary of the Authority be instructed to file such with said Executive Office of Environmental Affairs its Report and finding in accordance with the Authority's Rules and Regulations.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set forth in Appendix Item 16 filed with and attached to the Application, are hereby adopted and imposed as Rules and Regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in Appendix Item 16, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement with the Authority pursuant to the requirements of General Laws, Chapter 121A, Section 18C, and containing such other terms and conditions as the Authority may in its discretion deem necessary

and appropriate; (2) submit to the Authority for its review and approval such plans and specifications for the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate; and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will require a permit for the erection, maintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a Church.

The Project does not require a declaration that the buildings contemplated constitute a separate building for the purpose of General Laws, Chapter 138.

J. Zoning and Building Code Deviations. Proposed Deviations filed with and attached to the Application as Appendix 10 lists the zoning deviations requested. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority hereby finds that the attached zoning deviations, attached hereto and incorporated by reference as Exhibit A, are necessary for the carrying out of the total project and therefore granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations, respectively.

K. Duration of Period of Tax Exemption. In addition to the base term of fifteen (15) calendar years for the Project's period of tax exemption, pursuant to the provisions of section 10 of Chapter 121A, as amended by Chapter 827 of the Acts of 1975, the Authority hereby determines that the Project shall be entitled an extension of fifteen (15) years beyond the base period. This determination is based upon the fact that 11,850 square feet of space in the Project is being provided for local commercial retail activity. This space is being provided in

response to requests by abutting owners and neighborhood groups for additional business establishments along Brookline Avenue. The result of the inclusion of this space has led to significant increased construction and operating costs, construction alone at \$340,000. In addition, such retail activity will most likely be staffed by local community members. The Project will also provide three open space amenities for the community in the form of additional building set backs and street expansions. The first two will be additional setbacks along and widenings of Francis Street and Brookline Avenue. The result of this voluntary setback is to increase the cost of the land in the Project Area proportionately by sacrificing development rights above a significant portion of the site, at a cost of \$173,000. The third street expansion will lengthen Binney Street from Francis Street to Fenwood Road, improving traffic and air quality in the adjacent residential area at a cost of \$412,000. And the third reason for the tax exemption extension request is because of the unsuitability of the soil condition in the Project Area, specifically a large amount of old building foundations, four to five feet of overburden and soft materials which will require the use of unduly expensive excavation, fill or grading, spread foundations, and soldier piles and special treatment for the high water table at an additional cost of \$614,000.

L. Decision. For all the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, subject to the provisions set forth in this Report and Decision.

EXHIBIT A
APPENDIX 10

Application of Servicenter, Ltd., A Limited Partnership

REQUEST FOR DEVIATIONS FROM THE
BOSTON ZONING CODE AND
OTHER STATUTES AND ORDINANCES

I. Boston Zoning Code

Applicant requests deviations from the following provisions of the Boston Zoning Code with respect to the Premises which is located in an H-1 zoning district:

1. Section 8-7 (Use Items 34, 39, 40, 41, 43, 44, 46, 56, 59, 70 and 71) - Uses. Application proposes to use the Project for a Materials Handling Center for Affiliated Hospital Center, a garage to be leased to the Medical Area Service Corporation and local retail uses. With respect to the Materials Handling Center, Use Item 56 - Warehouse (including gas and flammable liquids), Use Item 70 - Objectionable Uses (including refuse matter, radioactive waste and activities which may cause odor and vibration) and Use Item 71 - Ancillary Use (storage, laundry handling, materials handling and other functions) are relevant. The first two uses are not permitted in an H-1 zoning district, while the third is permitted only with a conditional use permit if it is ancillary to a main use in the same district which is not the case in this instance. The parking garage (Use Item 59, local retail uses (Item 34), a bank (Item 41), professional and agency offices (Items 39 and 40), service establishments such as barber shops (Item 43), tailor and dry cleaning shops (Item 44), and caterer's establishments (Item 46) are not permitted in an H-1 district. Applicant requests deviations from all of these provisions to permit a mixture of uses as yet undetermined for the commercial space in the Project.
2. Section 15-1 - Floor Area Ratio. The gross floor area of the Project will be 247,863 square feet on a lot area of 55,866 square feet. Thus, a floor area ratio of 4.44 is proposed, in excess of the 1.0 floor area ratio allowed.
3. Section 18-1 - Front Yard. Section 18-1 requires a front yard of 25 feet along Brookline Avenue. The front yard is not parallel to the lot line and thus at one point the front yard will only be 1 foot in depth.
4. Section 18-3 - Traffic Visibility Across Corner. The Project violates corner visibility requirements at the intersections of Brookline Avenue with Francis Street and Fenwood Road.

5. Section 19-6 - Special Provisions for Corner Lots. The first 100 feet of Fenwood Road and Francis Street from their intersections with both Brookline Avenue and Binney Street are considered side yards and must be 12.5 feet. The center portion of the lot along each street must meet the front yard requirement of 25 feet. The Project does not have yard setbacks along either street.
6. Section 21-1 - Setbacks. Section 21-1 requires parapet setbacks along Francis Street and Fenwood Road of 19.75 feet. The setbacks to be provided in the Project are 8 feet and 0 feet, respectively.

II. Ordinances and Statutes

1. Chapter 178 of the Acts of 1961 prohibits the construction of a garage within 500 feet of a hospital. The Project will be within this distance of a hospital. Chapter 178 exempts from this prohibition "premises within that portion of the City commonly known as the first fire zone and described in Section 27 of Chapter 45 of the Revised Ordinances of 1898 of said City as in effect prior to the amendment of said section by Chapter 4 of the Ordinances of 1913". The Fire Department of the City of Boston is unable to determine the extent of the first fire zone at that time. Accordingly, a deviation from this provision is requested inasmuch as the garage will serve the Longwood Medical Area and will not be detrimental to the surrounding hospitals.

